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8 **UNITED STATES DISTRICT COURT**
9 **CENTRAL DISTRICT OF CALIFORNIA**
10 **SOUTHERN DIVISION**

11 SIFI NETWORKS FULLERTON, LLC,

12 Plaintiff,

13 vs.
14

15 BERKSHIRE HATHAWAY SPECIALTY
16 INSURANCE COMPANY,

17 Defendant.

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19 BERKSHIRE HATHAWAY SPECIALTY
20 INSURANCE COMPANY,

21 Counterclaimant,

22 vs.

23 SIFI NETWORKS FULLERTON, LLC,

24 Counterdefendant.
25

26 [Caption Continued on Following Page]
27
28

Case No. 8:23-cv-1417-FWS-JDE

PROTECTIVE ORDER

1 BERKSHIRE HATHAWAY SPECIALTY
2 INSURANCE COMPANY,

3 Third-Party Plaintiff,

4 vs.

5 SIFI NETWORKS AMERICA, LLC, a
6 Delaware Limited Liability Company; LAT
7 LONG INFRASTRUCTURE OF
8 CALIFORNIA LLC, a California Limited
9 Liability Company; LAT LONG
10 INFRASTRUCTURE LLC, a California
11 Limited Liability Company; DANIEL R.
12 URBAN, a Texas citizen; CAVALLO
13 CAPITAL PARTNERS LLC, a Delaware
14 Limited Liability Company; TRAFERO
15 TECHNOLOGIES LLC, a California
16 Limited Liability Company; ROLAND
17 PICKSTOCK, a citizen of the United
18 Kingdom; MICHAEL HARRIS, a citizen
19 of the United Kingdom,

20 Third-Party Defendants.

21 Based on the stipulation by and between counsel for all parties other than Daniel R.
22 Urban (Dkt. 148) and for good cause show, the Court finds and orders as follows.

23 **STIPULATED PROTECTIVE ORDER**

24 1. This Protective Order shall apply to information, documents, excerpts from
25 documents, and other materials produced in this action pursuant to the Federal Rules of
26 Civil Procedure governing disclosure and discovery.

27 2. Information, documents, and other materials may be designated by the
28 producing party (the “Designating Party”) in the manner permitted by paragraph 6. The
designation shall be either (a) “CONFIDENTIAL” or (b) “CONFIDENTIAL-
ATTORNEYS’ EYES ONLY.” All such information, documents, excerpts from
documents, and other materials will constitute “Protected Information” under this Order.

1 This Order shall apply to Protected Information produced by any party or third-party,
2 whether domestic or foreign, in this action.

3 **Designations**

4 3. “CONFIDENTIAL” information means information, documents, or things
5 that have not been made public by the disclosing party and that the disclosing party
6 reasonably and in good faith believes contains or comprises (a) trade secrets,
7 (b) proprietary business information, (c) information implicating an individual’s
8 legitimate expectation of privacy, or (d) information subject to protection under federal
9 or state law, or any other applicable legal standard.

10 4. “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” means
11 CONFIDENTIAL information that the disclosing party reasonably and in good faith
12 believes is so highly sensitive that its disclosure to a competitor could result in significant
13 competitive or commercial disadvantage to the designating party.

14 **Designation of Documents and Information**

15 5. A Designating Party may designate a document or information as
16 “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEYS’ EYES ONLY.”

17 6. Documents shall be designated by stamping or otherwise marking the
18 documents or information with the words “CONFIDENTIAL” or “CONFIDENTIAL-
19 ATTORNEYS’ EYES ONLY,” thus clearly identifying the category of Protected
20 Information for which protection is sought under the terms of this Order. The designations
21 shall appear on each page of the document that is believed to require designation, with
22 the exception that for spreadsheets produced in native format, the designation need only
23 appear on the TIFF placeholder. Protected Information not reduced to documentary form
24 shall be designated by the producing party in a reasonably equivalent way.

25 7. Material that qualifies for protection under this Order must be clearly
26 designated before the material is produced. Notwithstanding the preceding sentence,
27 inadvertent production of material that qualifies for protection under this Order prior to
28 its designation as such in accordance with this Order shall not be deemed a waiver of a

claim of confidentiality. Any such error shall be corrected within a reasonable time by providing prompt written notice to all persons receiving the information that the material should be treated as Protected Information.

8. Deposition transcripts or portions thereof may be designated as “CONFIDENTIAL” or “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” either (a) when the testimony is recorded, or (b) by written notice to all counsel of record, given within thirty (30) days after the Designating Party receives the final transcript.

(a) When testimony is designated at a deposition, the Designating Party may exclude from the deposition all persons other than those to whom the Protected Information may be disclosed under paragraph 10 of this Order.

(b) When testimony is designated by written notice, all counsel receiving such notice shall be responsible for marking the copies of the designated transcript or portion thereof in their possession or control as directed by the Designating Party. Pending expiration of the thirty (30) days, the deposition transcript shall be treated as Protected Information.

9. Any party may use documents containing Protected Information as a deposition exhibit, provided the deposition witness is one to whom the exhibit may be disclosed under paragraph 10 of this Order and the exhibit and related transcript pages receive the same confidentiality designation as the original Protected Information.

Disclosure and Use of Protected Information

10. Protected Information shall not be used or disclosed for any purpose other than the litigation of this action and may be disclosed only as follows:

(a) Protected Information designated “CONFIDENTIAL-ATTORNEYS’ EYES ONLY” may be disclosed only to:

- (i) the court and appropriate court personnel;
- (ii) outside counsel for the parties in this action;
- (iii) in-house counsel or officer(s)/director(s) with direct involvement in the litigation of the case;

1 (iv) litigation support personnel working on this matter, including
2 court reporters, court videographers, persons providing data management
3 and analysis services, and copy vendors;

4 (v) consulting or testifying experts retained for assistance in the
5 prosecution or defense of claims in the action, provided such person(s) first
6 agree in writing to be bound by this Order by signing a document
7 substantially in the form of Exhibit A;

8 (vi) any person who is indicated on the document to be either an
9 author or prior recipient of the Protected Information, or that is referenced
10 on the face of the document; and

11 (vii) any other person authorized to receive such information by
12 prior written consent of the Designating Party or prior order of this Court.

13 (b) Protected Information designated "CONFIDENTIAL" may be
14 disclosed only to:

15 (i) those parties identified in paragraph 10(a)(i)–(vii);

16 (ii) parties to this action or directors, officers and employees of
17 parties to this action, who have a legitimate need to see the information in
18 connection with their responsibilities for overseeing the litigation or
19 assisting counsel in preparing the action for trial or settlement, provided such
20 person(s) first agree in writing to be bound by this Order by signing a
21 document substantially in the form of Exhibit A; and

22 (iii) witnesses or prospective witnesses in this action, but only for
23 purposes of testimony or preparation of testimony in this case, whether at
24 trial, hearing, or deposition, provided such person(s) first agree in writing to
25 be bound by this Order by signing a document substantially in the form of
26 Exhibit A. Protected Information may not be retained by a witness or
27 prospective witness.
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1 11. Prior to disclosing or displaying any Protected Information to any person,
2 counsel, or the disclosing person, shall:

3 (a) Inform the person of the confidential nature of the Protected
4 Information; and

5 (b) Inform the person that this Court has enjoined the use of the Protected
6 Information by him/her for any purpose other than this litigation and has enjoined
7 the disclosure of that information or documents to any other person.

8 12. A person having custody of Protected Information shall maintain it in a
9 manner that limits access to the Protected Information to persons permitted such access
10 under this Order.

11 13. Counsel shall maintain a collection of all signed documents by which
12 persons have agreed to be bound by this Order for one year following the final disposition
13 of this action, and shall make them available in response to another party's reasonable
14 request.

15 **Security of Protected Information**

16 14. Parties receiving Protected Information must take reasonable precautions to
17 guard Protected Information against loss, misuse and unauthorized access, disclosure,
18 alteration, and destruction, including but not limited to:

19 (a) Protected Information in electronic format shall be maintained in a
20 secure litigation support site(s) that applies standard industry practices regarding
21 data security, including but not limited to the application of access control rights
22 to those persons entitled to access Protected Information under this Order;

23 (b) An audit trail of use and access to litigation support site(s) shall be
24 maintained while this Action, including any appeals, is pending;

25 (c) Any Protected Information downloaded from the litigation support
26 site(s) in electronic format shall be stored only on device(s) (e.g. laptops, network
27 drives, virtual private networks, servers, secure, access-controlled, file share
28 platforms cloud databases, document management systems, tablets, smartphones,

1 thumb drives, portable hard drives) that are password protected and/or encrypted
2 with access limited to persons entitled to access Protected Information under this
3 Order. If the user is unable to password protect and/or encrypt the device, the
4 Protected Information shall be password protected and/or encrypted at the file
5 level. The Receiving Party shall also track the transfer of any Protected
6 Information. These restrictions shall also apply to any onward transfer.

7 (d) Absent notice and permission by the Designating Party, the Receiving
8 Party shall not use any application, software, or analytical solution that will
9 transmit, transfer or allow access to any person, entity, or organization not bound
10 by the terms of this Order, to have access to Protected Information under the terms
11 of this Order (for the avoidance of any doubt, this paragraph does not apply to the
12 kinds of systems typically used by law firms for which no notice is required);

13 (e) Absent notice and permission by the Designating Party, any person or
14 entity authorized to have access to Protected Information under the terms of this
15 Order shall not use or employ any application, service, or analytical software that
16 will ingest, transfer, transmit, send or allow access to Protected Information (in
17 whole or in part) unless such application, service or analytical software is
18 containerized (e.g. does not allow access to information by unauthorized persons,
19 does not transmit any information stored within the litigation support system to be
20 accessed or transmitted outside of the litigation support system to analyze,
21 summarize, or interpret, has the ability to track all information in the system
22 (including access) and has the ability to remove or delete all information from the
23 system). For the avoidance of doubt, this includes but is not limited to any
24 advanced Artificial Intelligence tool such as Chat GPT 3/3.5/4 and Open AI.

25 (f) The above provisions do not apply to a commercialized litigation
26 support system (e.g. Relativity, iPro, Reveal, Everlaw, Logikcull) that is fully
27 containerized.
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Filing Protected Information Under Seal

15. Any Protected Information which becomes part of an official judicial proceeding or which is publicly filed with the Court is public. Such Protected Information will be sealed by the Court only upon motion and appropriate showing under the applicable law and rules. This Protective Order does not provide for the automatic sealing of such Protected Information. If it becomes necessary to file Protected Information with the Court, a party must move to file the Protected Information under seal.

16. If Protected Information is filed, the parties must adhere to the United States District Court for the Central District of California's Local Rule 79-5, et seq., and all other applicable rules.

17. All pleadings, writings, and information electronically filed under seal shall contain "**FILED UNDER SEAL**" prominently displayed underneath the caption of the case.

18. Any party also may move the Court for an order that Protected Information be received *in camera* by the Court and the opposing party or under other conditions to prevent unnecessary disclosure. A party wishing to move for in-camera review should follow the United States District Court for the Central District of California's Local Rule 79-6, et seq., and any further orders from the reviewing judge.

19. Filing pleadings or other papers disclosing or containing Protected Information does not waive the designated status of the material.

20. This order does not govern trial. The Court will determine how Protected Information will be treated during trial and other proceedings as it deems appropriate.

Miscellaneous

21. The nature and scope of discovery in this case potentially implicates information that is located in foreign jurisdictions. Accordingly, the parties acknowledge that the analysis and production of such information may require the parties to meet and confer regarding compliance with European data privacy and other foreign rules and regulations, including but not limited to the United Kingdom's General Data Protection

1 Regulation, the European Union's General Data Protection Regulation, and France's
2 Data Protection Act of 2018. The parties also recognize that certain additional steps may
3 be required, including requests for the entry of additional orders, redaction of documents,
4 or similar measures, for compliance with any applicable data privacy requirements.

5 22. The parties will use reasonable care to avoid designating as confidential
6 documents or information that does not need to be designated as such. A party may submit
7 a request in writing to the Designating Party that the designation be modified or
8 withdrawn. If the Designating Party does not agree to the redesignation within ten (10)
9 days, the objecting party may move relief under Local Civil Rule 37-1, et seq. Upon any
10 such motion, the burden shall be on the Designating Party to show why the designation
11 is proper. Before serving a written challenge, the objecting party must attempt in good
12 faith to meet and confer with the Designating Party to resolve the matter.

13 23. Upon final termination of this action, all Protected Information and copies
14 thereof shall be returned promptly (and in no event later than ninety (90) days after entry
15 of final judgment) to the Designating Party or, in the case of deposition testimony
16 regarding designated exhibits, counsel of record for the Designating Party. Alternatively,
17 the Receiving Party shall provide to the Designating Party a written certification that all
18 such materials have been destroyed. For the avoidance of doubt, return or destruction of
19 Protected Information and all copies thereof does not apply to any attorney working
20 copies or attorney work product.

21 24. Nothing in this Order shall require disclosure of information protected by
22 the attorney-client privilege, or other privilege or immunity, and the inadvertent
23 production of such information shall not operate as a waiver.

24 25. If a party becomes aware that it has inadvertently produced information
25 protected by the attorney-client privilege, or other privilege or immunity, the party will
26 promptly notify each Receiving Party in writing of the inadvertent production. When a
27 party receives notice of such inadvertent production, it shall return or destroy all copies
28 of inadvertently produced material within three (3) business days. Any notes or

1 summaries referring or relating to any such inadvertently produced material subject to
2 claim of privilege or immunity shall be destroyed forthwith.

3 26. Nothing herein shall prevent the Receiving Party from challenging the
4 propriety of the attorney-client privilege or work product immunity or other applicable
5 privilege designation by submitting a challenge to the Court. The opposing party bears
6 the burden of establishing the privileged nature of any inadvertently produced
7 information or material. Each Receiving Party shall refrain from distributing or otherwise
8 using the inadvertently disclosed information or material for any purpose until any issue
9 of privilege is resolved by agreement of the parties or by the Court. If a Receiving Party
10 becomes aware that it is in receipt of information or materials which it knows or
11 reasonably should know is privileged, counsel for the Receiving Party shall immediately
12 take steps to (i) stop reading such information or materials, (ii) notify counsel for the
13 Designating Party of such information or materials, (iii) collect all copies of such
14 information or materials, and (iv) return or destroy such information or materials.

15 27. Should a party withhold otherwise discoverable material on the basis that
16 the information is protected by the attorney-client privilege or other privilege or immunity
17 ("Privileged Information"), the party shall serve a privilege log that complies with
18 Federal Rule of Civil Procedure 26 within thirty (30) days of production from which the
19 Privileged Information is withheld.

20 28. The foregoing is entirely without prejudice to the right of any party to apply
21 to the Court for any further protective order relating to Protected Information; or to object
22 to the production of Protected Information; or to apply to the Court for an order
23 compelling production of Protected Information; or for modification of this Order; or to
24 seek any other relief from the Court.

25 29. Nothing in this Order authorizes any party to disobey a lawful directive from
26 another court or to ignore any lawful process.

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1 30. The restrictions imposed by this Order may be modified or terminated only
2 by further order of the Court.

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4 FOR GOOD CAUSE SHOWN, IT IS SO ORDERED.

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7 Dated: August 5, 2024

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10 JOHN D. EARLY
11 United States Magistrate Judge
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EXHIBIT A

Agreement to be Bound by Stipulated Protective Order

I hereby acknowledge that I have read the terms of the Stipulated Protective Order entered in the above-captioned civil action. I certify that I understand and agree to the terms and conditions thereof. I further acknowledge and agree that by agreeing to be bound by said Order, I voluntarily submit to the jurisdiction of the U.S. District Court for the Central District of California for the purposes of enforcement of said Order, including my receipt and review of information that has been designated as “CONFIDENTIAL” or “CONFIDENTIAL – ATTORNEYS’ EYES ONLY.”

I declare under penalty of perjury under the laws of the United States of America that the foregoing is true and correct.

Date: _____

Signature: _____

Printed Name: _____

Title/Position: _____

Company: _____